

## Procedures for Accessing a Trust Fund Loan

The Indiana Low Income Housing Trust Fund (LIHTF) was established in 1989 to provide short-term financing options for the development of safe, decent, and affordable housing in Indiana communities. In an effort to streamline the multi-family application process, developers applying for Rental Housing Tax Credits (RHTCs) may simultaneously request a LIHTF loan. If you are applying for RHTCs for any development and want to also access a LIHTF loan, you must indicate the LIHTF request on the “Multi-Family Housing Finance Application” and submit additional documentation as instructed in the “Multi-Family Housing Finance Application – Trust Fund Supplement.” Outside of this process, applications for LIHTF financing for a RHTC development will only be considered in accordance with IHFA’s Housing from Shelters to Homeownership application criteria.

In the event that an application is competitive for RHTCs but either (1) the application fails the LIHTF threshold review; or (2) LIHTF funds are not available to loan, IHFA will allow the applicant to submit additional information to identify other means of filling the development's financing gap. Upon timely receipt of requested information, these applications will continue to be allowed to compete for an allocation of RHTCs.

Applicants who receive a LIHTF loan should be aware that additional regulations and requirements accompany this program. LIHTF regulations may be found in the Indiana Code at I.C.-5-20-4. In particular, affordability requirements may be more stringent than under the RHTC program. Applicants should carefully review these regulations when requesting a LIHTF loan. IHFA strongly encourages applicants to consult with legal and accounting advisors due to the complexity of these programs.

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### Technical Assistance

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IHFA’s Development Specialists are available to answer questions you have about applying for a Trust Fund loan. The Specialist for your county can be reached by calling (317) 232-7777 or toll-free at (800) 872-0371.

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### LIHTF Program Eligibility

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Eligibility will be determined based on:

1. Whether the development demonstrates a need for a LIHTF loan in order to make a greater number of rental units affordable to lower income households.
2. Whether the development meets State and Federal requirements of all programs for which it is applying.
3. If the development ranking is sufficient for it to be awarded RHTCs pursuant to the RHTC process.
4. The availability of LIHTF funds.

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### Eligible Applicants

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The LIHTF applicant must be either a Limited Partnership (LP) or a Limited Liability Company (LLC) organized under Indiana law. If the LP or LLC has not yet been formed, the applicant must be the general



partner or member. If a loan is made to such an applicant, all subsequent loan documents must be executed by the LP or LLC.

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**LIHTF Loan Limitation**

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The maximum LIHTF loan request is \$300,000.

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**Maximum LIHTF Subsidy Limits**

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The maximum subsidy is \$75,000 LIHTF loan funds per unit.

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**Development Location**

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The development must be in Indiana.

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**Uses of LIHTF Loan**

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A LIHTF loan may be used for acquisition, construction or rehabilitation hard costs, and testing of lead hazards. The loan is available for construction and/or short-term permanent financing and may be used to refinance existing permanent debt.

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**Loan Term**

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The applicant may propose a loan term of up to seven (7) years.

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**Interest Rate**

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The applicant may propose the interest rate for the loan; however, applicants are strongly encouraged to consider interest rates of at least four percent (4%). In order to obtain maximum consideration for funding, applicants must be able to demonstrate that LIHTF financing at the rate proposed is necessary to make units affordable.

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**Security or Collateral**

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The LIHTF loan must be secured. In most instances, this will be met by a mortgage on the assisted property. The LIHTF loan can be subordinated to other financing, but there must be sufficient collateral to fully cover the amount of the loan. IHFA can also accept liens on personal property, liens on other real estate, and in some instances, personal guarantees. The security pledge should reflect the degree of risk inherent to the project and must be proportionate to the level of funding requested. The appropriateness of the security offered will be an element of the funding decision.

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**Threshold Criteria**

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1. The applicant must have indicated its intention to request LIHTF financing on an Intent to Submit Form submitted to IHFA by the published deadline.
2. On or before the application deadline, the applicant must provide all documentation as instructed in the "Multi-Family Housing Finance Application – Trust Fund Supplement."



3. The Development must meet all the requirements of this Schedule and the Indiana Code at I.C.-5-20-4.
4. The applicant must demonstrate that the LIHTF loan is not being used for bridge financing of the equity contribution. IHFA will consider several factors including, but not limited to: the timing of equity payments, the amount of permanent debt once all equity is contributed, the amount of the construction loan, etc.
5. If a balloon payment is proposed, the applicant must demonstrate that it has received a commitment from a third party lender for financing that will repay the LIHTF balloon amount.
6. If the applicant has previously been involved with funds under any IHFA program, the applicant and any related party must not:
  - a. Be on any IHFA suspension list.
  - b. Have an outstanding loan balance (including current loan request) that exceeds \$750,000.
7. IHFA reserves the right to disqualify from funding any applicant that has a history of disregarding the policies, procedures, or staff directives associated with administering any IHFA program or programs of other funders, such as the U.S. Department of Housing and Urban Development (HUD), Rural Development, or Federal Home Loan Bank.

**Note:** During funding rounds when loan recommendations fall below IHFA's internal funding goals, IHFA may, in its sole discretion, request additional information to be submitted for applications identified as being incomplete, having technical errors in the resolution, or having technical errors in the assurances and certifications. Upon timely receipt of requested information, these applications may then be allowed to compete for a LIHTF loan. However, they would only be recommended for funding after all complete applications have been recommended for funding.

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### **Occupancy Restrictions and Rent Limits**

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One hundred percent (100%) of the LIHTF-assisted units must be occupied by households whose incomes are at or below 50% of the area median income, adjusted for household size, with rental rates (including tenant-paid utilities) that do not exceed the 50% AMI HOME Rent Limit as published annually by IHFA's Community Development Department.

If an SRO unit does not have kitchen or bathroom facilities, or has either of these but not both, the maximum SRO rent will be the lesser of 75% of the Fair Market Rent or 100% of the applicable rent limit for an efficiency. For an SRO unit with both kitchen and bathroom facilities, the maximum SRO rent will be 100% of the applicable rent limit for an efficiency.

Rent limits do not include food or the costs of supportive services but do include the cost of any tenant-paid utilities. You must subtract from the published rent limit an approved utility allowance for all utilities for which the tenant will be responsible.

If the applicant proposes to receive all or a portion of the rent payment via a tenant based rental subsidy, the total tenant rent cannot exceed the published rent limits for the applicable income level. For example, a tenant residing in a unit set-aside for households at or below 40% of the area median income has a voucher that pays \$100 of his/her rent, and the published utility allowance for tenant paid utilities for the unit is \$50. If the published 50% Rent Limit is \$300, the tenant paid portion of rent cannot exceed \$150 (\$300 Rent Limit - \$100 Section 8 Voucher - \$50 Utility Allowance = \$150 Maximum Tenant Paid Portion).



All tenants who occupy LIHTF-assisted units must be income recertified on an annual basis. Section 8 definition of household income applies.



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## Minimum Period of Affordability

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The LIHTF-assisted units must meet affordability requirements for not less than fifteen years, beginning at development completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. The affordability requirements must be imposed by deed restrictions or covenants running with the land. Please note that the LIHTF affordability period may differ from that of the RHTC program.

The affordability period terminates only upon foreclosure, transfer in lieu of foreclosure, or sale of the assisted unit to an income-eligible participant of an approved RHTC lease-purchase program. IHFA may use purchase options, rights of first refusal, or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.

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## Property Standards

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- The completed development must meet the more stringent of the local rehabilitation standards or the Indiana State Building Code.
- The development must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973.
- Multi-family units, as defined at 24 CFR 100.201, must meet the design and construction requirements at 24 CFR 100.205, which implements the Federal Fair Housing Act Amendments of 1988.
- Newly constructed units must meet additional energy efficiency standards for new construction as described in 24 CFR 92.251. Namely newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

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## LIHTF Match Requirements

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The LIHTF program requires a ten percent (10%) match. This match may be provided by donated land, buildings, material, cash, and grants or loans from sources other than IHFA's CDBG or HOME programs. Other sources of match may also qualify. Contact your IHFA Development Specialist if you have questions about a specific source.

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## Underwriting Criteria

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In reviewing requests for a LIHTF loan in conjunction with RHTCs, IHFA will utilize the underwriting analysis completed in accordance with criteria as given in the current Rental Housing Tax Credit Qualified Allocation Plan for the State of Indiana. **Applicants awarded a LIHTF loan in conjunction with RHTCs may receive an offer of assistance (i.e., loan amount, loan term, interest rate, etc.) that is different from that requested.**



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## **Borrowing Resolution Requirements**

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Applicants of LIHTF funds must submit an original borrowing resolution adopted by their governing body or board of directors. (see sample resolution provided in the Multi-Family Housing Finance Application – Trust Fund Supplement). The resolution must be signed by the chief elected officer of the applicant's governing body or board of directors.

The resolution must address the current LIHTF request. If an applicant applies during a funding round but receives no funding, a new resolution must be adopted by the applicant's governing body for any subsequent application submittals. The resolution must:

- State the application due date;
- State the maximum amount of the LIHTF request;
- Authorize submission of the LIHTF loan application to IHFA;
- State the amount of matching funds being committed to the development;
- Commit the applicant to provide the required match amount, even if match is to be provided through an outside source. The legal applicant is ultimately responsible for the match liability and must commit to the liability through this resolution; and
- State the anticipated source of the match.

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## **LIHTF Assurances and Certifications**

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Applicants are required to submit an original, fully executed LIHTF Assurances and Certifications form. Applicants that receive LIHTF funding are bound by the content of the form. Applicants should seek the guidance of their legal counsel. The Assurances and Certifications form must be signed by the applicant's chief executive officer and must be notarized.

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## **Accessibility**

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The Federal Fair Housing Act Amendments of 1988 establishes the following seven design standards for all newly constructed multi-family housing of four or more units ready for first occupancy on or after March 13, 1991 (See 24 CFR 100.205). The housing is not covered if the last building permit was issued prior to June 15, 1990, or if the site is determined to be impractical.

- At least one building entrance must be on an accessible route.
- All public and common areas must be readily accessible to and usable by people with disabilities.
- All doors providing passage into and within all premises must be sufficiently wide for use by persons in wheelchairs.

Additionally, all ground floor units and all units on floors served by elevators must have:

- An accessible route into and through the dwelling.
- Accessible light switches, electrical outlets, thermostats, and other environmental controls.
- Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, and shower, when needed.
- Kitchens and bathrooms configured so that a person using a wheelchair can maneuver about the space.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities in the operation of programs receiving Federal financial assistance. HUD regulations implementing Section 504 contain accessibility requirements for new construction and rehabilitation of housing as well as requirements for ensuring that the programs themselves are operated in a manner that is accessible to and usable by persons with disabilities. (See 24 CFR Part 8). Multifamily housing developments are defined at 24 CFR 8.3 as developments “containing five or more dwelling units.”

**New Construction** - HUD regulations implementing Section 504 at 24 CFR 8.22(a) require that new construction of multifamily developments be designed and constructed to be readily accessible to and usable by persons with disabilities. Both the individual units and the common areas in the building must be accessible. For new construction of multifamily rental developments, a minimum of five percent (5%) of the dwelling units in the development (but not less than one unit) must be accessible to individuals with mobility impairments. An additional two percent (2%) of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e. hearing or vision impairments), unless HUD prescribes a higher number pursuant to 24 CFR 8.22(c).

**Rehabilitation - Substantial Alterations** - Section 504 requires that if alterations are undertaken to a housing development that has 15 or more units, and the rehabilitation costs will be 75 percent or more of the replacement cost of the completed facility, then such developments are considered to have undergone "substantial alterations" (24 CFR 8.23 (a)). For substantial alterations of multifamily rental housing, the accessibility requirements contained in 24 CFR 8.22 must be followed -- a minimum of five percent (5%) of the dwelling units in the development (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional two percent (2%), at a minimum (but not less than one unit), must be accessible to individuals with sensory impairments.

**Rehabilitation - Other Alterations** - When other alterations that do not meet the regulatory definition of substantial alterations are undertaken in multifamily rental housing developments of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of five percent (5%) of the dwelling units (but not less than one unit) are accessible to people with mobility impairments, unless HUD prescribes a higher number pursuant to 24 CFR 8.23(b)(2). If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible. For this category of rehabilitation the additional two percent (2%) of the dwelling units requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible. A recipient is not required to make a dwelling unit, common area, facility or element accessible, if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing development. (24 CFR 8.23(b)) Therefore, recipients are required to provide access in covered alterations up to the point of being infeasible or an undue financial and administrative burden.

**Accessibility Standards** - Dwelling units designed and constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) will be deemed to comply with the Section 504 regulation. For copies of UFAS, contact the HUD Distribution Center at 1-800-767-7468; hearing or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339. Accessible units must be, to the maximum extent feasible, distributed throughout the development and sites, and must be available in a sufficient range of sizes and amenities so as not to limit choice.

For further guidance regarding accessibility requirements, refer to HUD CPD Notice 00-09.



## Lead Based Paint Requirements

Recipients of a LIHTF loan are subject to the HUD lead based paint requirements found in 24 CFR Part 35. The chart below summarizes the requirement based on the amount of LIHTF funds subsidizing each LIHTF-assisted unit. For additional instructions, contact your IHFA Development Specialist.

	<b><u>Rehabilitation</u></b>			<b><u>Acquisition without Rehabilitation</u></b>
<b>LIHTF Amount Per Unit:</b>	<b>≤\$5,000</b>	<b>\$5,000-\$25,000</b>	<b>&gt;\$25,000</b>	
Approach # to Lead Hazard Evaluation & Reduction (see detail in following chart)	1. Do no harm	3. Identify & control lead hazards	4. Identify & abate lead hazards	2. Identify & stabilize deteriorated paint
Notification of Tenants	Yes	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing of surface to be disturbed by rehabilitation	Paint Testing of surface to be disturbed by rehabilitation & Risk Assessment	Paint Testing of surface to be disturbed by rehabilitation & Risk Assessment	Visual Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation.  Safe work practices & clearance of work site	Interim controls  Safe work practices & clearance of unit	Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation) Safe work practices & clearance of unit	Paint Stabilization  Safe work practices & clearance of unit
Ongoing Maintenance	For HOME rental only	For HOME rental only	For HOME rental only	Yes (if ongoing relationship)
EIBLL Requirements	No	No	No	No
<b><u>Options</u></b>	Presume lead- based paint & use safe work practices on all surfaces	Presume lead- based paint &/or hazards & use standard treatments	Presume lead- based paint &/or hazards & abate all applicable surfaces	Test deteriorated paint. Use safe work practices only on lead- based paint surfaces.





### Four Approaches To Implementing Lead Hazard Evaluation & Reduction:

<b>Approach 1. Do No Harm</b>		
<u>Lead Hazard Evaluation</u>  <b>Paint testing</b> performed on surfaces to be disturbed	<b>Lead Hazard Reduction</b>  Repair surfaces disturbed during work. <b>Safe work practices</b> used when working on areas identified as lead-based paint. <b>Clearance</b> performed on work site.	<b>Options</b>  <b>Presume lead-based paint</b> is present and use safe work practices on all surfaces being disturbed.
<b>Approach 2. Identify and Stabilize Deteriorated Paint</b>		
<b>Lead Hazard Evaluation</b>  <b>Visual assessment</b> performed to identify deteriorated paint.	<b>Lead Hazard Reduction</b>  <b>Paint stabilization</b> of identified deteriorated paint. <b>Safe work practices</b> used. <b>Clearance</b> performed unit-wide.	<b>Options</b>  <b>Perform paint testing</b> on deteriorated paint. Safe work practice requirements only apply to lead-based paint.
<b>Approach 3. Identify and Control Lead Hazards</b>		
<b>Lead Hazard Evaluation</b>  <b>Paint testing</b> performed on surfaces to be disturbed. <b>Risk assessment</b> performed on entire dwelling.	<b>Lead Hazard Reduction</b>  <b>Interim controls</b> performed on identified hazards. <b>Safe work practices</b> used. <b>Clearance</b> performed unit-wide.	<b>Options</b>  Presume lead based paint &/or lead based paint hazards are present & perform <b>standard treatments</b> .
<b>Approach 4. Identify and Abate Lead Hazards</b>		
<b>Lead Hazard Evaluation</b>  <b>Paint testing</b> performed on surfaces to be disturbed. <b>Risk assessment</b> performed on entire dwelling.	<b>Lead Hazard Reduction</b>  <b>Abatement</b> performed on identified hazards. <b>Interim controls</b> performed on identified hazards on the exterior that are not disturbed by rehabilitation. <b>Safe work practices</b> used. <b>Clearance</b> performed unit wide.	<b>Options</b>  Presume lead-based paint &/or lead-based paint hazards are present & perform <b>abatement on all applicable surfaces-</b> deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.